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EXAMINER

NGUYEN, MADELEINE ANH VINH

ART UNIT

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2625

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--|--|--|
| Office Action Summary | Application No. 10/763,220 | Applicant(s) HANAMOTO, TAKASHI | |
| | Examiner Madeleine AV Nguyen | Art Unit 2625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>05/07/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 9 and 10 are drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

“Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.”

“Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.”

Claims 9-10, while defining a control program and a recording medium does not define a “computer-readable medium” and is thus non-statutory for that reasons. A control program and a recording medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on “computer-readable medium” in order to make the claim statutory.

“In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.” - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumada et al (Publication No. US2002/0145744).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Concerning claim 1, Kumada discloses an image data processing apparatus (Fig.1, 10 and 22) for processing image data to be printed, comprising: a print-quality acquisition unit (Fig.22) adapted to acquire information relating to print quality (profile having output characteristics of a printer); and a selection unit (Figs. 24-25) adapted to select a combination of a color space and bit precision to which the image data to be printed will be converted, based upon the acquired information relating to print quality; wherein the image data is converted to the color space and bit precision selected by said selection unit (Abstract; paragraphs 0004-0007, 0051-0053, 0059, 0081-0089, 0140-0141, 0150).

Concerning claims 2-4, Kumada further teaches the apparatus according to claim 1, wherein a plurality of combinations are provided, each combination having a different color space size and bit precision (paragraphs 0051, 0053, 0059, 0141, 0150); and at least one combination among the plurality of combinations has a bit precision lower and a color space of a size (gamut) smaller than those of the other combinations (paragraphs 0051, 0053, 0059, 0141, 0150); the information relating to print quality is type of medium on which the image data is printed (paragraphs 0050, 0053, 0148); the information relating to print quality is resolution (inherently teach in the profile of the output device that prevails when the image data is printed, Figs.38, 40-41).

Claims 5, 7, 8 are method claims of apparatus claims 1, 3-4. Claims 5, 7, 8 are rejected for the same rationales set forth for claims 1, 3-4 above.

Concerning claims 9 and 10, Kumada discloses a control program or a recording medium residing on a computer readable medium for causing the image data processing method set forth in claim 5 to be implemented by a computer.

3. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Nishio et al (Publication no. US 2002/0196346).

Concerning claim 11, Nishio et al discloses An image data processing apparatus (Fig.1) comprising: a photography mode setting unit (126) adapted to set a photography mode at the time of photography; a photography unit (124) adapted to photograph a subject based upon the set photography mode; a selection unit (not shown in the personal computer PC) adapted to select a color space from a plurality of color spaces with a different color gamut in accordance

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with the photography mode; and a color conversion unit (not shown in the personal computer PC) adapted to convert the color space of the photographed image data into the selected color space (Abstract; paragraphs 0009, 0038, 0044, 0058, 0063, 0066 0074, 0076-0077).

Concerning claim 13, Nishio et al further teaches the apparatus according to claim 11, comprising a color space setting unit adapted to set a color space based upon the user instruction, and wherein if the color space selected by said selection unit and the color space set by said color space setting unit are different, said color conversion unit converts space of the photographed image data into each of these color spaces (paragraphs 0009, 0066, 0067, 0074-0077).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumada et al (Publication No. US2002/0145744).

Concerning claim 6, Kumada further teaches the selection of either 8-bit or 16 bit RGB including 8-bit sRGB (Fig.10; paragraph 0081-0085).

Kumada does not directly teach the 16-bit xRGB color space. However, since xRGB also belong in RGB color space while Kumada teaches 16-bit RGB, it would have been obvious to

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one skilled in the art at the time the invention was made to modify the selection of 16-bit RGB to 16-bit xRGB since the xRGB is also include in the RGB color space.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishio et al (Publication no. US 2002/0196346).

Concerning claim 12, Nishio fails to teaches that the apparatus according to claim 11, wherein the photography mode includes any of at least a portrait photography mode, a scenery photography mode and a night scenery photography mode. However, it is a matter of well known in the prior art that the photography mode for a camera includes portrait or scenery or night scenery photography modes since Nishio teaches “a Select/Set button 126 for setting ...picture modes having preset a plurality of image processing control parameter values for photographic conditions...” (paragraph 0038) and “image processing parameters that can be set automatically with ...picture mode, color space at the time of image processing, color space used at the time of shooting, etc. arbitrarily set by the user.” (paragraph 0044). It would have been obvious to one skilled in the art at the time the invention was made to modify the selection of the picture modes in Nishio to be any of at least a portrait or a scenery or a night scenery photography modes as a matter of well known in the prior art.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Granger (US Patent No. 5,991,511) discloses techniques for reproducing color faithfully, even on output devices having limited gamut.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 571 272-7466. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Madeleine AV Nguyen
Primary Examiner
Art Unit 2625

March 14, 2008